IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 3051 of 2003

Between:

Toddy Tappers Cooperative Society Ragudu

rep.by its President A.Devaiah Goud, S/o. Guruvaiah,
Ragudu (V), Siricilla Mandal & Municipality ,
Karimnagar.

..... PETITIONER

AND

1 The Proh. & Excise Superintendent,
Karimnagar Dist.
2 The Proh. & Excise Inspector, SHO,
Vemulavada, Karimnagar Dist.
3 Toddy Tappers Cooperative Society Chandragiri, Rep.by its President,
Chandragiri (V), Vemulavada (M), Karimnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction, preferably a writ in the nature of mandamus declaring the action of the respondents in interfering with the peaceful business of the petitioner society in Thettekunta Tope and preventing to conduct the business is illegal, arbitrary, unjust and contrary to instructions of Commisioner, of Proh. & Excise issued in Cr.No.33068/92/Ex/E1, dt:28/11/1992 and Rc.No.2882/Ex/E3, dt: 3/2/1983 and direct the respondents not to interfere in respect of tapping and selling of toddy in Thettekunta Tope by the petitioner society in the light of Cr.No.33068/92/Ex/E1, dt: 28/11/1992 and Rc.No.2882/Ex/E3, dt: 3/2/1983.

Counsel for the Petitioner:MR.AMARNATH GOUD THODUPUNURI
Counsel for the Respondent Nos.1 and 2: GP FOR PROHIBITION & EXCISE
Counsel for the Respondent No.3. Mr. CHANDRAIAH SUNKARA

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.3051 OF 2003

ORDER:

Toddy Tappers Cooperative Socieity, Ragudu Village, Vemulawada Mandal, Karimnagar District, seeks a declaration that the action of the respondents in interfering with peaceful business of the petitioner society in the tope and preventing petitioner from conducting the business is illegal and arbitrary. The petitioner was granted licence under toddy tapper cooperative societies scheme in accordance with the policy. It is the case of the petitioner that as per the circular issued by the Commissioner from time to time i.e., 3.2.1983, the petitioner is entitled to sell toddy in tope as well and therefore the respondents cannot interfere.

First respondent has filed a counter affidavit objecting for issue of Writ of Mandamus. It is stated that as per the licence issued to the petitioner, the petitioner is entitled to sell toddy at the place designated whose boundaries are mentioned in the licence and therefore any sale by the petitioners in tope is illegal.

The matter was heard by this Court on 7.6.2005, 8.6.2005 and 9.6.2005. Though there is a circular issued by the Commissioner, dt.3.2.1983, learned Government Pleader for Prohibition and Excise opposed the same stating that subsequent circular did not permit sale of toddy in tope. As directed by this Court, learned Government Pleader has produced a Circular Memorandum No.8197/97/CPE/E2, dt.26.12.1997, which reads as under.

> Attention of the all Assistant Commissioner of Pro. & Excise in the State is invited to the reference cited and they are informed that the High Court in its order dt.7.11.1997 in W.P.No.93211/97 have observed to vend toddy in the topes. The observation of the High Court in W.P.No.9321/97 is as under:-
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> "If the society desires to sell toddy at the topes, specific authorization for said purpose is to be obtained and unless such authorization is received, it would not be permissible for the society to sell toddy at the topes by establishing temporary or permanent shop. It is open to the petitioner society to seek appropriate authorization from the Prohibition and Excise Superintendent and it is for the said authority to pass appropriate orders if

and when such application is made by the petitioners society."

All the Asst. Commissioners are requested to follow the observations of the High Court and take further action in such cases forthwith.

Two things would become clear from the above circular. First, any licensee under TCS scheme is not entitled to sell toddy unless such authorization is received. Secondly, if a TCS desires to sell toddy in topes, it has to approach the competent authority, Prohibition and Excise Superintendent, before selling toddy in topes. Admittedly the petitioner does not have any such permission. In that view of the matter, there cannot be any criticism of the action taken by the respondents 1 and 2 in preventing the petitioner TCS from selling toddy in topes. However, petitioner can approach the first respondent for proper permission. As and when the petitioner approaches, first respondent shall pass appropriate orders.

The Writ Petition with the above observations is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

20.6.2005

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To

1 The Proh. & Excise Superintendent,
Karimnagar Dist.
2 The Proh. & Excise Inspector, SHO,
Vemulavada, Karimnagar Dist.
3 The President, Toddy Tappers Cooperative Society, Chandragiri,
Chandragiri Village, Vemulavada Mandal, Karimnagar Dist.

4 2 CCs to G.P. for Prohibition and Excise, High Court Bldgs.,

Hyderabad

5 2 CD copies